

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re :
:
PHILLIP GOTTDENGER :
Aka PINCHES ELIEZER GODINGER, : Chapter 13
:
Debtor. : Case No. 19-22118-RDD
:
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**JUDGMENT CREDITOR SPILMAN'S OBJECTION
TO DEBTOR'S MOTION TO VOID JUDICIAL LIENS
PURSUANT TO 11 U.S.C. § 522(f)(1)**

Judgment Creditor Joel Spilman, by his attorneys, Allyn & Fortuna LLP, respectfully represents:

1. I am an associate of the law firm of Allyn & Fortuna LLP, attorneys for Judgment Creditor Joel Spilman, as attorney-in-fact on behalf of Moshe Spilman, Yuda Schlesinger, Samuel Landau and Motty Heiman ("Spilman") in the above-captioned matter. I am familiar with the facts and circumstances set forth herein by virtue of my review of the file and discussions with my client.

2. I make this Objection to the instant motion of Debtor Philip Gottdenger a/k/a Pinches Eliezer Godinger to Void Judicial Liens pursuant to 11 U.S.C. § 522(f)(1).

3. A lien may be avoided to the extent that the sum of liens and the exemption exceed the value of the debtor's interest in the property. In re Gucciardo, 576 B.R. 297, 300 (Bankr. E.D.N.Y. 2017). Nevertheless, the party seeking to avoid a lien under § 522(f) bears the burden of proof by a preponderance of evidence on every statutory element. In re Schneider, 2013 WL 5979756, at *3, 2013 Bankr. LEXIS 4730, at *11 (Bankr. E.D.N.Y. Nov. 8, 2013); In re Armenakis, 406 B.R. 589, 604 (Bankr. S.D.N.Y. May 22, 2009). One such element is the fair market value of the property as of the petition date in order to show that the lien at

issue impairs the exemption. In re Gucciardo, 576 B.R. at 300.

4. Debtor's motion herein must be denied because Spilman believes that the value of the property located at 26 Dana Road, Monsey, NY 10952 ("Property") is twice what has been represented by Debtor. An appraisal is being prepared and will be submitted to demonstrate the accurate fair market value of the Property.

WHEREFORE, Spilman respectfully requests that this Court issue an Order denying Debtor's motion to void judicial liens, and for such other and further relief as the Court deems just, equitable and proper.

Dated: New York, New York
March 28, 2019

ALLYN & FORTUNA, LLP

By: 
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